



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/934,003

08/20/2001

Anthony J. Bacrocher

0112300-722

7783

29159 7590 02/21/2007
BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER

NGUYEN, DAT

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/934,003

Applicant(s)

BAERLOCHER ET AL.

Examiner

Dat T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The finality of the previous office action dated November 29, 2006 is withdrawn.

Response to Amendment

This office action is in response to the amendments filed on January 29, 2007 in which applicant amends claims 1, 12, 30, 42, 47, 48 and 49, adds claims 51-53, and responds to claim rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 12-19, 22, 23, 29-34, 37, 38, 42-53 are rejected under 35 U.S.C.

103(a) as being unpatentable over Walker et al. (Walker) (US 6,174,235) in view of The Price is Right. Walker teaches a gaming device comprising a display device (16), in input device (18), a plurality of player selectable positions displayable by the display device (120, 140), and a processor (12) operable with the display device and the input device to:

Display a plurality of player selectable positions wherein the corresponding value of the position is not displayed to the player. The player is allowed to select a plurality of positions from the entire group of positions (120, 140) and after the player has selected the positions, the game device reveals to the player the values of the positions,

Art Unit: 3714

determines an award for the result, and pays the player an award (abstract, col. 3, lines 1-15, col. 7, lines 16-67 and col. 8, lines 1-57).

Regarding claim 3 and 29, wherein the displayed value is based on the order of at least three positions, wherein the numbers associated with two of said positions are combined by a mathematical operation (col. 3, lines 14-15; and the award corresponding to the selected positions are combined using an addition operation wherein the values of each position is summed and paid to the player).

Regarding claim 17, the processor randomly generates the masked numbers from the set of numbers in the memory device (col. 7, lines 15-34).

Regarding claim 19, wherein at least two of the numbers in the set are the same (figure 5, features 124 and 126).

Regarding claim 33, wherein the award includes a different number of selections than the plurality of selections displayed by the display device (the award paid to the player is based only on the winning selections which is often times less than the total amount of selections made by the player).

Regarding claims 23 and 38, which includes a player selectable keep input which communicates with the processor, wherein activation of the keep input by the player causes the processor to transfer the award to the player to a credit meter controlled by the processor, the examiner has interpreted this feature to be akin to the "cash out" feature as disclosed in col. 4, lines 53-57, wherein the player is able to signal the machine to transfer the credits he has won onto a credit meter (player tracking card).

Art Unit: 3714

Regarding claims 51-53, Walker discloses displaying the player selected position one at a time or all at the end (col. 3, lines 10-12).

Regarding claim 22 and 37, which includes a plurality of reels controlled by the processor, wherein the masked numbers are randomly generated by at least one of the reels, the examiner believes the random generation of the masked numbers as taught by Walker is sufficient to yield this limitation obvious since it is notoriously well known in the art that a possible form of number generation could be one which utilizes reels. Therefore it would have been obvious to one of ordinary skill in the art to use reels as a means of random number generation.

Regarding claim 32, wherein the award includes each of the selections displayed by the display device (the player is paid out according to the values on the selections).

Regarding claim 43, wherein the plurality of positions are displayed by the display device before the player associated the selections with the positions (Walker teaches displaying the positions (120 and 140) before the player selects the positions, this feature is inherent because the player would be required to see the positions in order to select them)

Walker fails to disclose the limitations of:

- Awarding a number of monetary units equal to the value displayed by the display device associated with the positions.
- Positions include at least a one's digit and a ten's digit for the award (Any Number and Side by Side).

Art Unit: 3714

- The displayed value is based on the order of the digits (Any Number, Side by Side).
- Enabling the player to arrange at least two of the masked numbers in the award positions (Any Number).
- Positions include at least a one's digit, a ten's digit, and a hundred's digit for the award (Any Number).
- The selection orderer includes a prompt to place a selection in a designated digit position (Switcheroo, Any Number)
- The selection orderer is adapted to enable the player to rearrange an ordering of the selections a plurality of times before pressing a keep button by the display device (Switcheroo, Flip Flop, Side by Side).
- Wherein the selection orderer enables the player to press and drag a selection to a digit position (Switcheroo, Any Number).
- wherein the initial determination includes a plurality of player selectable inputs displayed by the display device, wherein a selection of a particular input provides a number of possible digits associated with the input (Any Number).
- Each of the numbers of the set are unique (Any Number).

However, The Price is Right, discloses the use of such features in a television game show. Walker and The Price is Right disclose devices and methods for gaming which award players a prize based on making selections and determinations, therefore Walker and The Price is Right are analogous. It would have been obvious to one of ordinary

Art Unit: 3714

skill in the art at the time of invention to include the multiple selection and arrangement options of The Price is Right with the gaming device of Walker in order to increase player involvement and give players a sense of control (col. 1 lines 19-56).

Claims 4, 5, 20, 21, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of The Price is Right as applied to claims 1, 12 and 30 above and further in view of Meyeroff (US 6,231,442 B1). The prior art is silent regarding the determination of the number of selections a player is to receive. In a related patent, Meyeroff teaches video slot machine with a bonus selection game wherein players are prompted to select bonuses from a plurality of symbols wherein the symbols represent additional payouts not visible to the player until the selections have been made. Furthermore, Meyeroff teaches an initial sequence controlled by the processor for determining how many positions the player is enabled to select (col. 7, lines 52-65). Furthermore, Meyeroff teaches a plurality of player selectable inputs and a number of positions associated with each selectable input (The examiner has interpreted the selectable inputs in this case to be the plurality of paylines in which the player can select. The symbol combinations in each payline correspond to a number of positions as mentioned above). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to include the dynamic player position selection determination means of Meyeroff with the gaming system of Walker in view of The Price is Right in order to generate another dynamic to the game resulting in an increase in player excitement and interest.

Claims 6-11, 24-28 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of The Price is Right as applied to claims 1, 12 and 30 above and further in view of Bennett (US 6,251,013 B1). Walker in view of The Price is Right is silent regarding the disclosure of award modification means wherein the selection/activation of the award modification means communicates with the processor to modify the award accordingly. Further the award modification being one of an award rearrangement, award regeneration, adding a digit to the award, subtracting a digit to the award, and award multiplication. In a related patent, Bennett discloses bonus and award modification devices and methods for use in electronic games of chance. More specifically, Bennett discloses that the award modification can be triggered by a random event or selection (col. 2, lines 1-13). Bennett also teaches swapping of symbol locations, award multiplier, as well as many other alterations (col. 2, lines 1-67). Walker teaches the use of selectable matrix in place of a conventional slot machine whereby randomly placing possible reel outcomes into a large matrix for players to select. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to include player selectable award modification means of Bennett with the player selecting game of Walker in view of The Price is Right since it is well known in the art that bonus features to increase payout will increase player excitement and interest in a game.

Walker is silent regarding when the random determination is made, specifically after the player selects one of the positions as required by claim 10. However, Examiner does not believe the order in which the random determination is made to be

Art Unit: 3714

critical to novelty. Furthermore, it would be a matter of routine to one of ordinary skill in the art to program a device that make the random determination after the player selection. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the random determination after the player selects the positions.

Response to Arguments

Applicant's arguments, see 16-18, filed January 29, 2007, with respect to the rejection(s) of claim(s) 1-50 under Hughs-Baird (US 6,875,108) in view of Price is Right have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made, please see the new rejection as stated above.

Regarding applicant's arguments regarding The Price is Right games, please refer to the above office action for a discussion of the processor operable with the display device and an input device to enable a player to arrange the plurality of masked numbers. The combination of Walker in view of The Price is Right would yield a device with such limitations since Walker clearly teaches the use of processors, display devices and input devices to carry out the functions of the game. The office action has therefore relied on The Price is Right for the rule set of the game and additional features of allowing player to manipulate the position of the numbers as well as providing a

Art Unit: 3714

payout according to the displayed value of the numbers, a more detailed discussion of the combination can be found in the instant office action. So the rules and additional features would be provided to the game from the gaming program and stored rules set of Walker (feature 28).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is 5712722178. The examiner can normally be reached on M-F 8am-5pm.

Art Unit: 3714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen

Handwritten signature of Robert Olszewski, dated 2/14/07.

ROBERT OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700